

IN THE DISTRICT COURT  
FOR THE DISTRICT OF MASSACHUSETTS

NEIGHBORHOOD ASSOCIATION  
OF THE BACK BAY, INC. et al.,

Plaintiffs,

v.

FEDERAL TRANSIT  
ADMINISTRATION and  
MASSACHUSETTS BAY  
TRANSPORTATION AUTHORITY,

Defendants.

CASE NO.: 04-11550-RCL

**DEFENDANT FEDERAL TRANSIT ADMINISTRATION'S**  
**MOTION FOR LEAVE TO FILE REPLY BRIEF**

Defendant Federal Transit Authority ("FTA"), hereby moves for leave to file the attached brief reply to Plaintiffs' Opposition to Defendants' Cross Motions for Summary Judgment and Reply to Defendants' Opposition to Plaintiffs' Motion for Summary Judgment ("Opposition and Reply") that was filed on April 15, 2005.

As grounds therefor, defendant FTA asserts that a brief reply is necessary to address issues and allegations not asserted in either the Second Amended Complaint or Plaintiffs' Memorandum in Support of Motion for Summary Judgment, but raised for the first time in plaintiffs' Opposition and Reply. Defendant FTA's response to those issues will assist in consideration and disposition of the parties' cross-motions for summary judgment.

WHEREFORE defendant FTA requests that this Motion be Granted, and that the Clerk be directed to enter the attached Reply on the docket, for consideration by the Court in connection with the parties' cross-motions for summary judgment.

Respectfully submitted,

By their attorney,

MICHAEL J. SULLIVAN  
United States Attorney

Dated: 29 April 2005

By: /s/Barbara Healy Smith  
Barbara Healy Smith  
Assistant U.S. Attorney  
John Joseph Moakley U.S. Courthouse  
1 Courthouse Way, Suite 9200  
Boston, MA 02210  
(617) 748-3263

**CERTIFICATE OF SERVICE**

This is to certify that I have this 29th day of April 2005, served upon the persons listed below a copy of the foregoing DEFENDANT FEDERAL TRANSIT ADMINISTRATION'S MOTION FOR LEAVE TO FILE REPLY BRIEF by depositing in the United States mail a copy of the same in an envelope bearing sufficient postage for delivery:

Gerald Fabiano  
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/s/Barbara Healy Smith  
Barbara Healy Smith  
Assistant U.S. Attorney

**L.R. 7.1 CERTIFICATION**

The undersigned counsel certifies on April 29, 2005, that she has conferred with the parties and has attempted in good faith to resolve or narrow the issue.

/s/Barbara Healy Smith  
Barbara Healy Smith  
Assistant U.S. Attorney